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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,445	07/02/2003	Katarina Magnusson	SG 03197	5438
44012	7590	08/09/2006	EXAMINER	
WHITE, REDWAY & BROWN LLP 1217 KING STREET ALEXANDRIA, VA 22314			MIGGINS, MICHAEL C	
			ART UNIT	PAPER NUMBER

1772

DATE MAILED: 08/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/612,445

Applicant(s)

MAGNUSSON, KATARINA

Examiner

Michael C. Miggins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 15, 16, 18, 19 and 21-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-16, 18-19, 21-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

#### **REJECTIONS WITHDRAWN**

1. All of the rejections maintained in the non-final rejection of 11/18/05, page 2, paragraph 3 are withdrawn.

#### **REJECTIONS REPEATED**

2. There are no rejections repeated.

#### **NEW REJECTIONS**

##### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 15-16, 18-19, 21-24 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Furuya et al. (US 4355756).

Furuya discloses a method for packaging and retort sterilizing a food product (column 2, lines 1-34) comprising the steps of providing an open container comprising a laminate including a base layer formed from paper or cardboard, outer and inner layers comprising a first and second polymeric material respectively (column 2, lines 1-34), adding a food product to the inside of the container under non-aseptic conditions (column 4, lines 57-63), closing the container and exposing the outside of the container

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to retort sterilization at a temperature between 90 and 121 degrees C (column 5, line 57 through column 6, line 2), maintaining said retort sterilization for a time sufficient to heat said container and said food product to a temperature providing sterilization of said food product while maintaining dimensional stability (column 5, line 57 through column 6, line 2), allowing the container and food product to cool (column 5, line 57 through column 6, line 2) since the container must be allowed to cool to examine and evaluate the container), wherein said outer and inner polymeric materials are made from high density polyethylene, polypropylene or polyethylene terephthalate (column 2, lines 58-68).

Furuya also discloses wherein said inner and outer polymeric materials are the same or different and each has a melting point sufficiently high to withstand exposure to said moist heat in a manner consistent with said dimensional stability and mechanical strength of the container (column 2, lines 11-68, column 5, line 57 through column 6, line 2), wherein said exposing and maintaining steps are carried out at a sufficient temperature and for sufficient time to stabilize said food product via sterilization, or pasteurization (column 2, lines 11-68, column 5, line 57 through column 6, line 2), wherein the laminate contains an aluminum barrier layer (column 2, lines 11-34), wherein the laminate additionally includes an intermediate layer of low density polyethylene (column 3, lines 38-54), wherein said laminate additionally includes a coating adjacent on one or both sides of the barrier layer wherein the coating is an adhesive plastic (column 3, lines 38-54, since LDPE is taught), wherein said inner and outer layer comprise a polyester, and wherein said article has an F value of between 3 and 18 (column 6, lines 1-2).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Furuya et al. (US 4355756) in view of Kato et al. (US 5527622).

Furuya fails to disclose that the outer or inner layer is polyethylene terephthalate contains glycol/cylcohexanedimethanol.

Kato discloses an inner or outer layer which is polyethylene terephthalate containing glycol/cylcohexanedimethanol (column 3, lines 30-45, column 4, lines 18-28) in a food container containing paper (column 1, lines 18-26, column 3, lines 30-45) in order to provide improved heat sealing and scent retention even after hot water treatment (column 2, lines 20-27).

Therefore it would have been obvious at the time applicant's invention was made to have provided a container wherein the inner and/or outer layer which is polyethylene terephthalate containing glycol/cylcohexanedimethanol in the container of Furuya in order to provide improved heat sealing and scent retention even after hot water treatment as taught or suggested by Kato.

**ANSWERS TO APPLICANT'S ARGUMENTS**

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7. Applicant's arguments filed 8/29/05 have been carefully considered but are moot in view of the new grounds for rejection set forth above.

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Miggins whose telephone number is 571-272-1494. The examiner can normally be reached on 1:00-10:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y. Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael C. Miggins  
Primary Examiner  
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A handwritten signature in black ink, appearing to read "Michael C. Miggins", with a long horizontal flourish extending to the right.

MCM  
July 10, 2006